THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1258 of 2005

Dated: 28-07-2005

Between:

1 Andhra Pradesh State Road Transport Corporation, Mushirabad, Hyderabad, rep., by its Vice-Chairman & Managing Director, Hyderabad and others.

..... APPELLANTS

AND

G.Murali, s/o late Suryanarayana, r/o Plot No.9, H.No.6/70, Indranagar Colony, Srikakulam.

.....RESPONDENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1258 of 2005

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

Challenge in this appeal is as to the correctness of the order rendered by a learned single Judge of this Court dated 21-03-2005.

With a view to properly understand and appreciate the controversy involved in this revision, case set up by the parties is as under:

The petitioner was appointed as a driver in Srikakulam-1 Depot in 1983. On 6-3-2004, he met with an accident at Illicipuram junction. In view of the same, he was found unfit for A1 category by the Medical Officer, due to partial colour blindness. In pursuance of the proceedings dated 18.6.2004 issued by the 3rd respondent, the petitioner was placed under 'forced leave' with effect from 17.05.2004. Thereupon, he made representation on 4.10.2004, requesting the Corporation to provide employment as per Disability Act. But, no action has been taken by the Corporation. Aggrieved by the same, he preferred the writ petition.

Combating the allegations made in the writ petition, the Corporation filed a counter affidavit wherein it has been stated that after examination, the petitioner was found unfit for A1 category due to partial colour blindness. Hence, he was kept under forced leave from the date of finding unfit. The petitioner submitted a representation to the 2nd respondent for providing alternative appointment. The 3rd respondent had informed the petitioner that his name was registered in the office for alternative appointment of Shramik under 10% quota as per the circular instructions and his case will be considered as and when his turn

comes. There are no sanction vacancies of Shramiks in Srikakulam Region under 10% quota as he was not eligible for conductor post. In case of retirement on medical grounds, the employee will be extended all terminal benefits and hence the writ petition is liable to be dismissed.

Having gone through the entire material on record and the order impugned, the learned single Judge directed the respondents to provide alternate post to the petitioner for which he is suitable by making it clear that the petitioner is entitled to all usual mandatory benefits with effect from the date of finding unfit to the post of A1 category till the date of his joining in the alternative post or his retirement which ever is earlier.

We have heard the learned counsel on either side.

Perused the entire material available on record and the order impugned.

On examination of the facts of this case, it is perceptible that the petitioner was unfit for A1 Category due to partial colour blindness, which he sustained in an accident. A perusal of the provisions to Section 45 of the Act, 1995 clearly goes to show that the respondent-Corporation cannot dispense with the service of the petitioner or refuse to provide alternative employment. Therefore, we are of the view that the respondent-Corporation is under the obligation to provide alternate post to the petitioner, and that even in case, any suitable post is not available, a duty is cast upon the Corporation to provide suitable post in lieu of the alternate arrangement. In the facts and circumstances, we have no hesitation to hold that the findings as arrived at by the learned single Judge do not suffer from any material irregularity or illegality in the order impugned and thereby they do not warrant any interference by this Court.

The writ appeal is, accordingly, dismissed.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

28.07.2005

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